



(Billing Code: 3510-DS-P)

DEPARTMENT OF COMMERCE

International Trade Administration

(A-405-803)

Purified Carboxymethylcellulose from Finland; Notice of Preliminary Results of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce

SUMMARY: In response to requests from Aqualon Company, a division of Hercules Inc., (Petitioner) and respondents CP Kelco Oy and CP Kelco U.S., Inc. (collectively, CP Kelco), the Department of Commerce (the Department) is conducting an administrative review of the antidumping duty order on purified carboxymethylcellulose (CMC) from Finland. The review covers exports of the subject merchandise to the United States produced by CP Kelco. The period of review (POR) is July 1, 2010, through June 30, 2011.

We preliminarily find that CP Kelco made sales at less than normal value (NV) during the POR. If these preliminary results are adopted in our final results of this review, we will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties based on differences between the export price (EP) or constructed export price (CEP) and NV.

EFFECTIVE DATE: August 7, 2012

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SUPPLEMENTARY INFORMATION:

Background

The Department published the antidumping duty order on CMC from Finland on July 11, 2005.¹ On July 1, 2011, the Department published the notice of opportunity to request an administrative review of CMC from Finland for the period July 1, 2010, through June 30, 2011.²

On July 29, 2011, Petitioner requested a review of CP Kelco for the period July 1, 2010, through June 30, 2011. On July 29, 2011, CP Kelco requested an administrative review for the same period. On August 26, 2011, the Department published in the Federal Register a notice of initiation of this antidumping duty administrative review.³

On September 28, 2011, the Department issued its standard antidumping questionnaire (the Antidumping Questionnaire) to CP Kelco. CP Kelco submitted its response to section A of the Antidumping Questionnaire on October 19, 2011 (CP Kelco's Section A Response). CP Kelco submitted its responses to sections B and C of the Antidumping Questionnaire on November 4, 2011 (CP Kelco's Section B Response and CP Kelco's Section C Response, respectively). Because the Department disregarded sales which were made at prices below the cost of production (COP) in the most recently completed administrative review as of the initiation of the instant review, we are conducting a sales-below-cost investigation in this

¹ See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands, and Sweden, 70 FR 39734 (July 11, 2005).

² See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation: Opportunity To Request Administrative Review, 76 FR 38609 (July 1, 2011).

³ See Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part, 76 FR 53404 (August 26, 2011).

review.⁴ Accordingly, CP Kelco submitted its response to section D of the Antidumping Questionnaire on November 9, 2011 (CP Kelco's Section D Response).

On December 16, 2011, the Department issued a supplemental questionnaire to CP Kelco regarding its responses to sections A, B, and C of the Antidumping Questionnaire. CP Kelco submitted its response to the Department's sections A, B, and C supplemental questionnaire on February 7, 2012 (CP Kelco's February 7, 2012, Response). On February 7, 2012, the Department issued a supplemental questionnaire to CP Kelco regarding its response to section D of the Antidumping Questionnaire. CP Kelco submitted its response to the Department's supplemental questionnaire on March 7, 2012 (CP Kelco's March 7, 2012, Response). On March 15, 2012, the Department issued another supplemental questionnaire to CP Kelco regarding its responses to sections A, B, and C of the Antidumping Questionnaire. CP Kelco submitted its response to the Department's supplemental questionnaire on March 26, 2012 (CP Kelco's March 26, 2012, Response). On March 22, 2012, the Department issued a supplemental questionnaire to CP Kelco regarding its response to section C of the Antidumping Questionnaire. CP Kelco submitted its response to the Department's supplemental questionnaire on April 2, 2012 (CP Kelco's April 2, 2012, Response). On April 24, 2012, the Department issued a supplemental questionnaire to CP Kelco regarding its response to section D of the Antidumping Questionnaire. CP Kelco submitted its response to the Department's supplemental questionnaire on May 8, 2012 (CP Kelco's May 8, 2012, Response). On May 25, 2012, Petitioner made a targeted dumping allegation (Petitioner's May 25, 2012, Targeted Dumping Allegation). On

⁴ See Purified Carboxymethylcellulose from Finland; Notice of Preliminary Results of Antidumping Duty Administrative Review, 75 FR 47788 (August 9, 2010) (2008-2009 Preliminary Results) (unchanged in Purified Carboxymethylcellulose from Finland; Notice of Final Results of Antidumping Duty Administrative Review, 75 FR 73035 (November 29, 2010) (2008-2009 Final Results)).

June 4, 2012, CP Kelco submitted rebuttal comments regarding Petitioner's May 25, 2012, Targeted Dumping Allegation (CP Kelco's June 4, 2012, Targeted Dumping Rebuttal Comments). On June 6, 2012, Petitioner submitted rebuttal comments regarding CP Kelco's June 4, 2012, Targeted Dumping Rebuttal Comments (Petitioner's June 6, 2012, Targeted Dumping Rebuttal Comments). On June 15, 2012, CP Kelco submitted a corrected U.S. sales file.

Scope of the Order

The merchandise covered by this order is all purified carboxymethylcellulose (CMC), sometimes also referred to as purified sodium CMC, polyanionic cellulose, or cellulose gum, which is a white to off-white, non-toxic, odorless, biodegradable powder, comprising sodium CMC that has been refined and purified to a minimum assay of 90 percent. Purified CMC does not include unpurified or crude CMC, CMC Fluidized Polymer Suspensions, and CMC that is cross-linked through heat treatment. Purified CMC is CMC that has undergone one or more purification operations which, at a minimum, reduce the remaining salt and other by-product portion of the product to less than ten percent. The merchandise subject to this order is classified in the Harmonized Tariff Schedule of the United States at subheading 3912.31.00. This tariff classification is provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Fair Value Comparisons

To determine whether sales of CMC in the United States were made at less than NV, we compared U.S. price to NV, as described in the "Export Price," "Constructed Export Price," and "Normal Value" sections of this notice. Because we determined that CP Kelco made both EP

and CEP sales during the POR, we used both EP and CEP as the basis for U.S. price in our comparisons. We used the invoice date, as recorded in CP Kelco's normal books and records, as the date of sale for CP Kelco's EP, CEP, and home market sales. See 19 CFR 351.401(i).

Targeted Dumping

In Petitioner's May 25, 2012, Targeted Dumping Allegation, Petitioner alleges targeted dumping by CP Kelco in this POR. As Petitioner notes, the Department allows for the application of a different, exceptional or alternative price comparison method if the Department determines that it is more appropriate, to address case-specific circumstances.⁵ As petitioner also points out, in Final Modification, the Department further explains that "{it} will determine on a case-by-case basis whether it is appropriate to use an alternative comparison methodology by examining the same criteria that the Department examines in original investigations pursuant to sections 777A(d)(1)(A) and (B) of the {Tariff Act of 1930, As amended (The Act)}." ⁶ Citing Sections 777(d)(1)(A) and (B), Petitioner explains that it is submitting a targeted dumping allegation, in accordance with the Department's practice in investigations.⁷

Petitioner claims information on the record in this proceeding demonstrates that when the criteria pursuant to section 777A(d)(1)(B)(i) of the Act are considered, CP Kelco's sales demonstrate patterns of EPs and CEPs for comparable merchandise that differ significantly among purchasers, regions, and periods of time.⁸ Petitioner asserts that CP Kelco's data "already

⁵ See Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification, 77 FR 8101 (February 14, 2012) (Final Modification).

⁶ See Final Modification at 8102.

⁷ See Petitioner's May 25, 2012, Targeted Dumping Allegation at 2 and 3.

⁸ Id. at 1 and 3.

demonstrate an extremely high likelihood that application of the average-to-average calculation method will mask its targeted dumping.”⁹

Petitioner also asserts that its allegation is timely and notes that the Final Modification does not set a deadline for the submission of targeted dumping allegations. Therefore, Petitioner explains it has followed what it asserts is the Department’s current practice in investigations, whereby targeted dumping allegations are to be submitted no later than 45 days before the “scheduled date” of the preliminary determination.

In CP Kelco’s June 4, 2012, Targeted Dumping Rebuttal Comments, CP Kelco argues that Petitioner’s May 25, 2012, Targeted Dumping Allegation should be rejected by the Department as an untimely submission of new information. CP Kelco notes that the Department has not set a deadline for submitting allegations of targeted dumping in administrative reviews. Therefore, CP Kelco argues that section 351.301(b)(2) of the Department’s regulations governs, and that any factual information submitted by a party in an administrative review must be submitted within 140 days of the anniversary month of the proceeding.¹⁰

Alternatively, CP Kelco argues that because the Department’s preliminary results were initially scheduled to be released on April 1, 2012, the deadline for submitting a targeted dumping allegation was (and remains) 45 days prior to April 1, 2012. Therefore, CP Kelco argues Petitioner’s allegation of targeted dumping is untimely.

CP Kelco contends that section 751(a)(3)(A) of the Act allows the Department to extend the due date of the preliminary results where it is not practicable for the Department to complete

⁹ Id. at 8.

¹⁰ See CP Kelco’s June 4, 2012, Targeted Dumping Rebuttal Comments at 1 to 2.

the review within the original time period, not to provide additional time for the parties to make new targeted dumping allegations. CP Kelco argues “Petitioner should not be allowed to take advantage of the Department’s need for additional time....by making an untimely targeted dumping allegation, which will further complicate the proceeding and the burden on the Department.”¹¹

In Petitioner’s June 6, 2012, Targeted Dumping Rebuttal Comments, it argues that the 140-day deadline in 19 CFR 351.301(b)(2) does not apply because that deadline pertains to new factual information, and because Petitioner’s May 25, 2012, Targeted Dumping Allegation is not new factual information.

Citing CP Kelco’s rebuttal comments, Petitioner describes CP Kelco’s alternative arguments as two-fold: that “the ‘45 days prior to the preliminary determination’ deadline for investigations does not apply to reviews,” or, alternatively, that any extension of the deadline “may not rebound to the benefit of the parties.”¹² Petitioner further argues that CP Kelco provides nothing in support except to argue that “the Department has not set a deadline for submitting allegations of targeted dumping in administrative reviews,” and “{a}s a result,” the Department should apply the 140-day rule found in section 351.301(b)(2) of the Department’s regulations.¹³ Petitioner further contends that CP Kelco’s argument that “{Petitioner’s targeted dumping allegation} will further complicate the proceeding and the burden on the Department”¹⁴ is specious because, as Petitioners put it, “the date for the preliminary determination is the date

¹¹ Id. at 3.

¹² See Petitioner’s June 6, 2012, Targeted Dumping Rebuttal Comments at 2.

¹³ See CP Kelco’s June 4, 2012, Targeted Dumping Rebuttal Comments at 1 to 2.

¹⁴ Id. 2.

for the preliminary determination, no matter how the Department arrives at it.”¹⁵ Petitioner further argues that “there is no reason why the Department’s practice of setting a 45-day deadline for targeted dumping allegations should be limited to un-extended preliminary determination dates.”¹⁶

The Department has not established a deadline for targeted dumping allegations in administrative reviews, and so it would be unreasonable to reject this allegation as “untimely” where no such time limit was established. In addition, if we apply the 45-day deadline applicable in investigations, the allegation is timely. In the initiation notice of investigations, we only state that targeted dumping allegations are due no later than 45 days before the scheduled date of the preliminary determination, and our normal practice is to consider the 45-day period in light of the extended preliminary determination in investigations. As petitioner filed its targeted dumping analysis on May 25, 2012, the filing was 45-days prior to the extended preliminary deadline. Thus, the Department has accepted the allegation as timely filed, based on our extended deadline for the preliminary results. The Department also agrees with petitioner that the submission is merely an analysis of data previously placed upon the record by CP Kelco and, therefore, does not constitute untimely new factual information debarred under 19 CFR 351.302(b)(2).

For the purposes of these preliminary results, the Department has not conducted a targeted dumping analysis.¹⁷ This is consistent with our approach to the identical issue in

¹⁵ See Petitioner’s June 6, 2012, Targeted Dumping Rebuttal Comments at 2.

¹⁶ Id. at 2.

¹⁷ In these preliminary results, the Department applied the weighted-average dumping margin calculation method adopted in Final Modification. In particular, the Department compared monthly weighted-average EPs (or CEPs) with monthly weighted-average NVs and granted offsets for non-dumped comparisons in the calculation of the weighted-average dumping margin.

concurrent administrative reviews.¹⁸ Application of this methodology in these preliminary results affords parties an opportunity to meaningfully comment on the Department's implementation of this recently adopted methodology in the context of this administrative review. The Department intends to continue to consider, pursuant to 19 CFR 351.414(c), whether another method is appropriate in this administrative review in light of the parties' pre-preliminary comments and any comments on the issue that parties may include in their case and rebuttal briefs.

Product Comparisons

In accordance with section 771(16) of the Act, we considered all products produced by CP Kelco covered by the "scope of the order" section and sold in the home market during the POR to be foreign like products for purposes of determining appropriate product comparisons to U.S. sales. We relied on five characteristics to match U.S. sales of subject merchandise to home market sales of the foreign like product (listed in order of priority): 1) grade; 2) viscosity; 3) degree of substitution; 4) particle size; and 5) solution gel characteristics. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we compared U.S. sales to the next most similar foreign like product on the basis of these product characteristics and the reporting instructions listed in the antidumping questionnaire. When there were no appropriate home market sales of comparable merchandise, we compared the merchandise sold in the United States to constructed value (CV), in accordance with section 773(a)(4) of the Act. For these preliminary results, we did base NV on constructed value (CV) in some instances. See "Constructed Value" section, below.

¹⁸ See, e.g., Tapered Roller Bearings from China, 77 FR 40579 (July 10, 2012).

Export Price

Section 772(a) of the Act defines EP as “the price at which the subject merchandise is first sold (or agreed to be sold) before the date of importation by the producer or exporter of subject merchandise outside of the United States to an unaffiliated purchaser in the United States or to an unaffiliated purchaser for exportation to the United States,” as adjusted under section 772(c) of the Act. In accordance with section 772(a) of the Act, we used EP for a number of CP Kelco’s U.S. sales. We preliminarily find that these sales are properly classified as EP sales because these sales were made before the date of importation and because our CEP methodology was not otherwise warranted.

We based EP on the prices to unaffiliated customers in the United States. We made adjustments for price or billing adjustments and discounts, where applicable. We also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate: foreign inland freight; international freight; marine insurance; U.S. brokerage and handling; and direct selling expenses (credit expenses).

We reduced movement expenses, where appropriate, by the amount of freight revenue paid by the customer to CP Kelco in reimbursement for CP Kelco arranging and initially paying for freight.¹⁹ We limited the amount of freight revenue deducted to no greater than the amount of movement expenses in the home market, in accordance with the Department’s past practice.²⁰

¹⁹ See CP Kelco’s Section B Response at B-25; CP Kelco’s Section C Response at C-28; and CP Kelco’s January 28, 2012, Response, Section B, at 9 to 11, and Section C, at 11 to 14.

²⁰ See, e.g., 2008-2009 Preliminary Results (unchanged in 2008-2009 Final Results) and Polyethylene Retail Carrier Bags from the People’s Republic of China: Final Results of Antidumping Duty Administrative Review, 74 FR 6857 (February 11, 2009) (Bags from the PRC), and the accompanying Issues and Decision Memorandum at Comment 6; Purified Carboxymethylcellulose from Finland: Notice of Final Results of Antidumping Duty Administrative Review, 72 FR 44106 (August 7, 2007); Purified Carboxymethylcellulose from Finland: Notice of Final Results of Antidumping Duty Administrative Review, 74 FR 28886 (June 18, 2009); Purified Carboxymethylcellulose from Finland: Notice of Final Results of Antidumping Duty Administrative Review, 73

As the Department explained in Bags from the PRC, section 772 (c)(1) of the Act provides that the Department shall increase the price used to establish either EP or CEP in only the following three instances: (A) when not included in such price, the cost of all containers and coverings and all other costs, charges, and expenses incident to placing the subject merchandise in condition packed ready for shipment to the United States; (B) the amount of any import duties imposed by the country of exportation which have been rebated, or which have not been collected, by reason of the exportation of the subject merchandise to the United States; and (C) the amount of any countervailing duty imposed on the subject merchandise under subtitle A to offset an export subsidy. In addition, section 351.401(c) of the Department's regulations directs the Department to use a price in the calculation of U.S. price which is net of any price adjustments that are reasonably attributable to the subject merchandise. The term "price adjustments" is defined under 19 CFR 351.102(b)(38) as "any change in the price charged for subject merchandise or the foreign like product, such as discounts, rebates, and post-sale adjustments, that are reflected in the purchaser's net outlay."

In past cases, we have declined to treat freight-related revenues as either an addition to U.S. price under section 772(c) of the Act or as price adjustments under 19 CFR 351.102(b). Rather, we have incorporated these revenues as offsets to movement expenses because they relate to the transportation of subject merchandise.²¹ Our offset practice limits the granting of an offset to situations where a respondent incurs expenses and realizes revenue for the same type of

FR 75397 (December 11, 2008); and Purified Carboxymethylcellulose from Finland: Notice of Final Results of Antidumping Duty Administrative Review, 72 FR 70568 (December 12, 2007).

²¹ See, e.g., Stainless Steel Wire Rod from Sweden: Preliminary Results of Antidumping Duty Administrative Review, 72 FR 51414 (September 7, 2007) (Steel Wire Rod Preliminary Results) (unchanged in Stainless Steel Wire Rod from Sweden: Final Results of Antidumping Duty Administrative Review, 72 FR 12950 (March 1, 2008)).

activity.²² According to CP Kelco's responses, CP Kelco arranges and pre-pays for transportation and bills the freight expenses in question as a separate line on the product invoice.²³ Further, CP Kelco reports that these fees charged to the customer which generate freight revenues are based upon estimates of actual freight, not actual freight expenses. Therefore, we have limited the amount of the freight revenue used to offset CP Kelco's movement expenses to the amount of movement expenses incurred on the sale of subject merchandise.²⁴

Constructed Export Price

In accordance with section 772(b) of the Act, CEP is "the price at which the subject merchandise is first sold (or agreed to be sold) in the United States before or after the date of importation by or for the account of the producer or exporter of such merchandise, or by a seller affiliated with the producer or exporter, to a purchaser not affiliated with the producer or exporter," as adjusted under sections 772(c) and (d) of the Act. In accordance with section 772(b) of the Act, we used CEP for a number of CP Kelco's U.S. sales because CP Kelco sold merchandise to its affiliate CP Kelco U.S., Inc. in the United States; and CP Kelco U.S., Inc., in turn, sold the subject merchandise to unaffiliated U.S. customers. We preliminarily find that these U.S. sales are properly classified as CEP sales because they occurred in the United States after importation and were made through CP Kelco U.S. Inc. to unaffiliated U.S. customers.

We based CEP on the prices to unaffiliated purchasers in the United States. We made adjustments for price or billing adjustments, and early payment discounts, where applicable. We

²² Id.

²³ See CP Kelco's Section A response at A-26; CP Kelco's Section C response at C-27 to C-28; and CP Kelco's February 7, 2012, Response at A-39 to A-41.

²⁴ See Preliminary Analysis Memorandum at 3 and 8.

also made deductions for movement expenses in accordance with section 772(c)(2)(A) of the Act, which included, where appropriate: foreign inland freight; foreign brokerage and handling; international freight; marine insurance; customs duties; U.S. brokerage; U.S. inland freight; and U.S. warehousing expenses. We also reduced movement expenses, where appropriate, by the amount of freight revenue paid by the customer to CP Kelco. In accordance with our treatment of freight revenue on U.S. sales of subject merchandise (see “Export Price” section, above), we capped the amount of freight revenue deducted at no greater than the amount of movement expenses in the home market. In accordance with section 772(d)(1) of the Act, we deducted those selling expenses associated with economic activities occurring in the United States, including direct selling expenses (imputed credit expenses), inventory carrying costs, and indirect selling expenses. We also made an adjustment for profit in accordance with section 772(d)(3) of the Act.

Normal Value

A. Selection of Comparison Market

In order to determine whether there was a sufficient volume of sales in the home market to serve as a viable basis for calculating NV (i.e., the aggregate volume of home market sales of the foreign like product was equal to or greater than five percent of the aggregate volume of U.S. sales), we compared the respondent’s volume of home market sales of the foreign like product to the volume of U.S. sales of the subject merchandise in accordance with section 773(a)(1) of the Act. As CP Kelco’s aggregate volume of home market sales of the foreign like product was greater than five percent of its aggregate volume of U.S. sales of the subject merchandise, we determined the home market was viable. Therefore, we have based NV on home market sales in

the usual commercial quantities and in the ordinary course of trade.

B. Cost of Production Analysis

In accordance with section 773(b)(2)(A)(ii) of the Act, we are conducting a sales-below-cost investigation in this review because the Department disregarded some of CP Kelco's sales as having been made at prices below the cost of production in the previous administrative review.²⁵

C. Calculation of Cost of Production

In accordance with section 773(b)(3) of the Act, we calculated the weighted-average COP for each model based on the sum of CP Kelco's materials and fabrication costs for the foreign like product, plus an amount for home market selling, general, and administrative (SG&A) expenses, financial expenses, and packing costs. We examined the cost data and determined that our quarterly cost methodology is not warranted and, therefore, we have applied our standard methodology of using annual costs based on the reported data as adjusted below. We relied on the COP data submitted by CP Kelco except as follows. We adjusted COM, in accordance with the major input rule at section 773(f)(3) of the Act.²⁶

We compared the weighted-average COP of CP Kelco's home market sales to home market sales prices of the foreign like product (net of billing adjustments, discounts, any applicable movement expenses, direct and indirect selling expenses, and packing), as required under section 773(b) of the Act, in order to determine whether these sales had been made at prices below the COP. Based on our review of the record evidence, it appears that CP Kelco did

²⁵ See 2008-2009 Preliminary Results (unchanged in 2008-2009 Final Results).

²⁶ See Memorandum from Angie Sepulveda, Accountant, to Neal Halper, Director, Office of Accounting, regarding "Cost of Production and Constructed Value Calculation Adjustments for the Preliminary Results - CP Kelco Oy" dated July 30, 2012 (Cost Calculation Memorandum)).

not experience significant changes in the cost of manufacturing during the POR. Therefore, we followed our normal methodology of calculating an annual weighted-average cost.

In determining whether to disregard home market sales made at prices below the COP, we examined, in accordance with sections 773(b)(1)(A) and (B) of the Act, whether such sales were made in substantial quantities within an extended period of time and whether such sales were made at prices which would permit recovery of all costs within a reasonable period of time.

D. Results of the Cost Test

Pursuant to section 773(b)(2)(C) of the Act, where less than 20 percent of CP Kelco's sales of a given model were at prices less than the COP, we did not disregard any below-cost sales of that model because these below-cost sales were not made in substantial quantities. Where 20 percent or more of CP Kelco's home market sales of a given model were at prices less than the COP, we disregarded the below-cost sales because such sales were made: (1) within an extended period of time and in "substantial quantities" within the POR, in accordance with section 773(b)(2)(B) and (C) of the Act; and (2) at prices which would not permit recovery of all costs within a reasonable period of time, in accordance with section 773(b)(2)(D) of the Act (i.e., the sales were made at prices below the weighted-average per-unit COP for the POR). We disregarded some of CP Kelco's sales as having been made at prices below the cost of production in accordance with 773(b)(2)(C) of the Act. We used the remaining sales as the basis for determining NV in accordance with section 773(b)(1) of the Act.

E. Price-to-Price Comparisons

We calculated NV based on prices to unaffiliated customers. We made adjustments for billing adjustments, early payment discounts, and rebates, where appropriate. We made

deductions, where appropriate, for foreign inland freight, pursuant to section 773(a)(6)(B) of the Act. We also reduced foreign inland freight, where appropriate, by the amount of freight revenue paid by the customer to CP Kelco. In accordance with our treatment of freight revenue on U.S. sales of subject merchandise (see “Export Price” section, above), we capped the amount of freight revenue deducted at no greater than the amount of movement expenses in the home market. In addition, when comparing sales of similar merchandise, we made adjustments for differences in cost (i.e., DIFMER), where those differences were attributable to differences in physical characteristics of the merchandise, pursuant to section 773(a)(6)(C)(ii) of the Act and section 351.411 of the Department’s regulations. We also made adjustments for differences in circumstances of sale (COS) in accordance with section 773(a)(6)(C)(iii) of the Act and Section 351.410 of the Department’s regulations. We made COS adjustments for imputed credit expenses. We also made an adjustment, where appropriate, for the CEP offset in accordance with section 773(a)(7)(B) of the Act. See “Level of Trade and CEP Offset” section below. Finally, we deducted home market packing costs and added U.S. packing costs in accordance with sections 773(a)(6)(A) and (B) of the Act.

F. Constructed Value

In accordance with section 773(a)(4) of the Act, we base NV on CV if we are unable to find a contemporaneous comparison market match of identical or similar merchandise for the U.S. sale. Section 773(e) of the Act provides that CV shall be based on the sum of the cost of materials and fabrication employed in making the subject merchandise, selling, general, and administrative expenses (SG&A expenses), profit, and U.S. packing costs. We calculated the cost of materials and fabrication for CP Kelco based on the methodology described in the COP

section of this notice. In accordance with section 773(e)(2)(A) of the Act, we based SG&A expenses and profit on the amounts incurred and realized by CP Kelco in connection with the production and sale of the foreign like product in the ordinary course of trade, for consumption in the foreign country. For these preliminary results, we based NV on CV in some instances.

Level of Trade and CEP Offset

In accordance with section 773(a)(1)(B) of the Act, to the extent practicable, we base NV on sales made in the comparison market at the same level of trade (LOT) as the export transaction. The NV LOT is based on the starting price of sales in the home market or, when NV is based on CV, on the LOT of the sales from which SG&A expenses and profit are derived. With respect to CEP transactions in the U.S. market, the CEP LOT is defined as the level of trade of the constructed sale from the exporter to the importer. See section 773(a)(7)(A) of the Act.

To determine whether NV sales are at a different LOT than CEP sales, we examine stages in the marketing process and selling functions along the chain of distribution between the producer and the customer. See 19 CFR 351.412(c)(2). If the comparison-market sales are at a different LOT, and the difference affects price comparability, as manifested in a pattern of consistent price differences between the sales on which NV is based and comparison-market sales at the LOT of the export transaction, we make a LOT adjustment under section 773(a)(7)(A) of the Act. For CEP sales, if the NV LOT is more remote from the factory than the CEP LOT and there is no basis for determining whether the difference in the levels between NV and CEP affects price comparability, we adjust NV under section 773(a)(7)(B) of the Act (the

CEP offset provision).²⁷ For CEP sales, we consider only the selling activities reflected in the U.S. price after the deduction of expenses incurred in the U.S. and CEP profit under section 772(d) of the Act.²⁸ We expect that if the claimed LOTs are the same, the functions and activities of the seller should be similar. Conversely, if a party claims the LOTs are different for different groups of sales, the functions and activities of the seller should be dissimilar.²⁹

CP Kelco reported two levels of trade for its U.S. sales, an EP level of trade (based on the selling activities associated with the transactions between CP Kelco Oy and its customers in the U.S.) and a CEP LOT (which is based on the selling activities associated with the transaction between CP Kelco and its affiliated importer, CP Kelco U.S., Inc.).³⁰ We obtained information on CP Kelco's marketing process and selling functions along the chain of distribution between the producer and the customer in the U.S.³¹ Our analysis indicates the selling functions performed in the EP channel of distribution are either performed at a higher degree of intensity or are greater in number than the selling functions performed for CEP sales to CP Kelco U.S., Inc. For example, in comparing CP Kelco's selling activities, we find most of the reported selling functions performed in the EP channel of distribution are not a part of CEP transactions (i.e., sales negotiation, credit risk management, collection, sales promotion, direct sales personnel, technical support, and guarantees). For those selling activities performed for both EP sales and CEP sales (i.e., customer service, logistics, inventory maintenance, packing, and

²⁷ See, e.g., Final Determination of Sales at Less Than Fair Value: Greenhouse Tomatoes From Canada, 67 FR 8781 (February 26, 2002), and accompanying Issues and Decision Memorandum at Comment 8; see also Certain Hot-Rolled Flat-Rolled Carbon Quality Steel Products from Brazil: Preliminary Results of Antidumping Duty Administrative Review, 70 FR 17406, 17410 (April 6, 2005) (unchanged in final results of review, 70 FR 58683 (October 7, 2005)).

²⁸ See Micron Technology, Inc. v. United States, 243 F.3d 1301, 1314-1315 (Fed. Cir. 2001).

²⁹ See Porcelain-on-Steel Cookware from Mexico: Final Results of Antidumping Duty Administrative Review, 65 FR 30068 (May 10, 2000), and accompanying Issues and Decision Memorandum at Comment 6.

³⁰ See CP Kelco's Section C Response at pages C-24 to C-25.

³¹ See CP Kelco's Section A response at A-16 to A-37.

freight/delivery), CP Kelco reported it performed each activity at either the same or at a higher level of intensity in the EP channel of distribution, with the sole exception of the inventory maintenance selling function.

We further note that CEP sales from CP Kelco to CP Kelco U.S., Inc., generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory. In contrast, all sales made through the EP channel of distribution occur closer to the end of the distribution chain, involve smaller volumes. They also require more customer interaction and consequently the performance of more selling functions. Accordingly, we preliminarily determine that CP Kelco's EP sales and CEP sales were made at separate and distinct LOTs, and that the EP LOT is at a more advanced stage than the CEP LOT.

In the current review, CP Kelco reported only one level of trade in the home market.³² We obtained information from CP Kelco regarding the marketing process and selling functions along the chain of distribution between the producer and the customer in the home market. In the home market, our analysis indicates the selling functions performed for home market end user customers are performed at similar degree of intensity and are similar in number to the selling functions performed for home market distributor customers. For example, in comparing CP Kelco's selling activities, CP Kelco reported that all of the selling functions performed in the home market distributor channel of distribution are also performed in the home market end user channel of distribution (i.e., sales negotiation, credit risk management, customer service, logistics, inventory maintenance, packing, freight/delivery, collection, sales promotion, direct sales personnel, technical support, and guarantees).

CP Kelco also reported that many selling functions are performed at the same level of

³² See CP Kelco's Section B Response at B-21.

intensity (i.e., customer service, logistics, collection, sales promotion, and guarantees). CP Kelco reported differences in the level of intensity between the home market distributor and end user channels of distribution for only the (sales negotiation, credit risk management, inventory maintenance, packing, freight/delivery, direct sales personnel, and technical support) selling functions. Further where there were differences reported by CP Kelco, these differences were minor.

While we found differences in the levels of intensity performed for some of these functions between the home market end user and distributor channels of distribution, such differences are minor and do not establish distinct and separate levels of trade in Finland. We further note that all sales in the home market both occur closer to the end of the distribution chain and involve similar volumes; they require similar customer interaction and consequently the performance of similar selling functions at similar levels of intensity. Accordingly, we preliminarily determine that CP Kelco's home market sales through the distributor and end user channels of distribution were made at the same LOT.

We then compared CP Kelco's home market LOT to its EP level of trade. Our analysis indicates the selling functions performed for home market customers are performed at similar degree of intensity and are similar in number to the selling functions performed the EP channel of distribution. For example, in comparing CP Kelco's selling activities, CP Kelco reported that all of the selling functions performed in the home market distributor and end user channels of distribution are also performed in the EP channel of distribution (i.e., sales negotiation, credit risk management, customer service, logistics, inventory maintenance, packing, freight/delivery, collection, sales promotion, direct sales personnel, technical support, and guarantees).

CP Kelco also reported that many selling functions are performed at the same level of intensity for all three channels of distribution (i.e., customer service, logistics, collection, sales promotion, and guarantees). Further, CP Kelco reported that the credit risk management and packing selling functions are performed at the same level of intensity for both the EP and home market distributor channel of distribution. CP Kelco reported differences in the level of intensity between the home market distributor and end user channels of distribution and the EP channel of distribution for the inventory maintenance, packing, direct sales personnel, and technical support selling functions. However, where there were differences reported by CP Kelco, these differences were minor.

While we found differences in the levels of intensity performed for some of these functions between the home market and EP levels of trade, such differences are minor and do not establish distinct and separate levels of trade. We further note that home market and EP sales both occur closer to the end of the distribution chain and involve similar volumes; they require similar customer interaction and consequently the performance of similar selling functions at similar levels of intensity. Accordingly, we preliminarily determine CP Kelco's home market and EP sales were made at the same LOT and no LOT adjustment is warranted for the EP sales.

CP Kelco claims that it did not make home market sales at a LOT comparable to the CEP LOT. Therefore, CP Kelco requests the Department make a CEP offset.³³ Accordingly, we compared the NV LOT (based on the selling activities associated with the transactions between CP Kelco and its customers in the home market) to the CEP LOT (which is based on the selling activities associated with the transaction between CP Kelco and its affiliated importer, CP Kelco U.S., Inc.) Our analysis indicates the selling functions performed for home market customers are

³³ See CP Kelco's Section A Response at A-33 to A-34.

either performed at a higher degree of intensity or are greater in number than the selling functions performed for sales to CP Kelco U.S., Inc. For example, in comparing CP Kelco's selling activities, we find most of the reported selling functions performed in the home market are not a part of CEP transactions (i.e., sales negotiations, credit risk management, intermediate warehousing, collection, sales promotion, direct sales personnel, technical support, guarantees, and discounts). For those selling activities performed for both home market sales and CEP sales (i.e., customer service, logistics, inventory maintenance, packing, and freight/delivery), CP Kelco reported it performed each activity at either the same or at a higher level of intensity in one or both of the home market channels of distribution. For both the packing and the freight/delivery selling functions, each function is performed at the same level of intensity in one home market channel of distribution, but at a lower level of intensity in the other home market channel of distribution.

We further note that CEP sales from CP Kelco to CP Kelco U.S., Inc., generally occur at the beginning of the distribution chain, representing essentially a logistical transfer of inventory. In contrast, all sales in the home market occur closer to the end of the distribution chain, involve smaller volumes. They also require more customer interaction and consequently the performance of more selling functions. Based on the foregoing, we conclude that the NV LOT is at a more advanced stage than the CEP LOT.

Because we found the home market and U.S. CEP sales were made at different LOTs, we examined whether a LOT adjustment or a CEP offset may be appropriate in this review. As we found only one LOT in the home market, it was not possible to make a LOT adjustment to home market sales, because such an adjustment is dependent on our ability to identify a pattern of

consistent price differences between the home market sales on which NV is based and home market sales at the LOT of the U.S. sales. See 19 CFR 351.412(d)(1)(ii). Furthermore, we have no other information that provides an appropriate basis for determining a LOT adjustment. Because the data available do not form an appropriate basis for making a LOT adjustment, and because the NV LOT is at a more advanced stage of distribution than the CEP LOT, we have made a CEP offset to NV in accordance with section 773(a)(7)(B) of the Act.

Currency Conversions

CP Kelco reported certain U.S. sales prices and certain U.S. expenses and adjustments in Euros. Therefore, we made Euro-U.S. dollar currency conversions, where appropriate. Conversions were based on the exchange rates in effect on the dates of the U.S. sales, as certified by the Federal Reserve Board, in accordance with section 773A(a) of the Act.

Preliminary Results of Review

As a result of our review, we preliminarily find the following weighted-average dumping margin exists for the period July 1, 2010, through June 30, 2011:

<u>Manufacturer / Exporter</u>	<u>Weighted Average Margin (percentage)</u>
CP Kelco	5.86%

The Department intends to disclose the calculations used in our analysis to parties in this review within five days of the date of publication of this notice in accordance with Section 351.224(b) of the Department's regulations.³⁴ An interested party may. Interested parties, who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, filed

electronically using Import Administration's Antidumping and Countervailing Duty Centralized Electronic Service System (IA ACCESS). An electronically filed document must be received successfully in its entirety by the Department's electronic records system, IA ACCESS, by 5 p.m. Eastern Time within 30 days after the date of publication of this notice.³⁵ Requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues to be discussed. If a request for a hearing is made, the Department will inform parties of the scheduled date for the hearing which will be held at the U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230, at a time and location to be determined.³⁶ Parties should confirm by telephone the date, time, and location of the hearing.

Comments

Interested parties are invited to comment on the preliminary results of this review. The Department will consider case briefs filed by interested parties within 30 days after the date of publication of this notice in the Federal Register.³⁷ Interested parties may file rebuttal briefs, limited to issues raised in the case briefs. The Department will consider rebuttal briefs filed not later than five days after the time limit for filing case briefs.³⁸ Parties who submit arguments are requested to submit with each argument a statement of the issue, a brief summary of the argument, and a table of authorities cited. The Department intends to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the Federal Register.

Assessment Rates

³⁵ See 19 CFR 351.303(b).

³⁶ See 19 CFR 351.310.

³⁷ See 19 CFR 351.309(c).

³⁸ See 19 CFR 351.309(d).

The Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries. Upon completion of this administrative review, pursuant to section 351.212(b) of the Department's regulations, the Department will calculate an assessment rate on all appropriate entries. CP Kelco has reported entered values for all of its sales of subject merchandise to the U.S. during the POR. If CP Kelco's weighted-average dumping margin is above de minimis in the final results of this review, we will calculate importer-specific duty assessment rates on the basis of the ratio of the total amount of antidumping duties calculated for the importer's examined sales to the total entered value of the examined sales of that importer, in accordance with section 351.212(b)(1) of the Department's regulations.³⁹ These rates will be assessed uniformly on all entries the respective importers made during the POR. The Department will issue appropriate assessment instructions directly to CBP fifteen days after publication of the final results of review.

The Department clarified its "automatic assessment" regulation on May 6, 2003.⁴⁰ This clarification will apply to entries of subject merchandise during the POR produced by the respondent for which it did not know its merchandise was destined for the United States. In such instances, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company(ies) involved in the transaction.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of this administrative review for all shipments of CMC from Finland entered, or

³⁹ In these preliminary results, the Department applied the assessment rate calculation method adopted in Final Modification, i.e., on the basis of monthly average-to-average comparisons using only the transactions associated with that importer with offsets being provided for non-dumped comparisons.

⁴⁰ See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties, 68 FR 23954 (May 6, 2003).

withdrawn from warehouse, for consumption on or after the date of publication as provided by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for CP Kelco will be the rate established in the final results of this administrative review; (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in this review, a prior review, or the original investigation but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; (4) if neither the exporter nor the manufacturer is a firm covered in this review, the cash deposit rate will be the all-others rate of 6.65 percent ad valorem established in the LTFV investigation.⁴¹ These cash deposit requirements, when imposed, shall remain in effect until further notice.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double the antidumping duties.

⁴¹ See Notice of Antidumping Duty Orders: Purified Carboxymethylcellulose from Finland, Mexico, the Netherlands and Sweden, 70 FR 39734 (July 11, 2005).

Authority and Publication

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Paul Piquado
Assistant Secretary
for Import Administration

July 30, 2012
Date

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